

## **II. REMARKS**

### **A. Introductory Remarks**

Reconsideration and allowance of this application is earnestly requested. Claims 77 to 106, 108 to 139 are pending in this application. Claims 77-106, 108-120, 122 and 125-139 are rejected under 35 U.S.C. §103(a). Claims 121, 123 and 124 are objected to as being dependent on a rejected base claim. No new amendments have been entered and no new matter has been added.

### **B. Rejection of Claims 77-106, 108-120, 122 and 125-139 under 35 U.S.C. §103(a) Should be Withdrawn**

The Office Action dated April 17, 2006 rejected claims 77-106, 108-120, 122 and 125-139 as allegedly obvious over Brusic et al. alone or in view of Fang and Dirksen et al. for the reasons stated in the previous office action dated 10/03/2005. Further, the Office Action stated that the declaration under 37 C.F.R. §1.131 filed on 01/30/2006 had been considered but it was ineffective to overcome the previous rejections for the following reasons: 1) It was not signed by all the inventors as required and 2) The declaration did not state where the work was done and that it should state that the work was done in the US/NAFTA/WTO country.

Applicants are concurrently submitting a newly executed declaration under 37 C.F.R. §1.131 by all of the named inventors, Robert J. Small and Zheifei Chen. Applicants submit that these declarations comply with the requirements and formalities under MPEP 715 and 37 CFR §1.131. Additionally, Applicants submit that these new declarations address the remaining issues raised in the Office Action, namely that: 1) the declaration have been signed by all of the named inventors and 2) the declaration states that the inventors conducted their research work in the United States.

Regarding the rejections under 35 U.S.C. §103 over Brusic et al., the attached declarations show that the inventors conceived and reduced to practice their claimed invention prior to January 22, 2002, which is the filing date of the primary reference of Brusic et al. (U.S. Patent 6,527,622) cited by the Examiner.

Applicants diligently acted between that date prior to January 22, 2002 to the actual filing date of January 25, 2002 to prepare, revise, and file the instant application. A draft patent application, which is substantially identical to the instant application as filed, was submitted in Applicants' response filed on January 20, 2006 to the Office Action dated October 3, 2005. The fact that the draft application is substantially the same as the filed application is evidence that the Applicants conceived and reduced their invention before the filing date of the Brusic reference. Applicants further contend that there was no delay in preparing and filing the application. Therefore, Applicants have properly sworn behind the Brusic reference.

Accordingly, it is respectfully submitted that all of the applicants' claims, define subject matter which is new and unobvious and, therefore, should be held allowable.

### **III. Request for Allowance**

In view of the newly submitted declaration and arguments presented above, all claims are now thought to be in condition for allowance, an indication of which is solicited. In the event that any issues remain outstanding, Applicants would appreciate the courtesy of a telephone call to the undersigned counsel to resolve such issues in an expeditious manner so as to place this application in condition for allowance.

A three-month extension fee is co-filed herewith. However, if any additional fees are determined to be due, the Commissioner is hereby authorized to charge these fees to the Morgan, Lewis & Bockius Deposit Account no. 50-0310.

Respectfully submitted,

**MORGAN LEWIS & BOCKIUS LLP**

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